

Supreme Court of the United States

OCTOBER TERM, 1970

No. 5586

PAUL J. BELL, JR.,

Petitioner,

—v.—

R. H. BURSON, DIRECTOR, GEORGIA DEPARTMENT
OF PUBLIC SAFETY

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS
OF GEORGIA

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DOCKET ENTRIES OF THE COURTS BELOW**A. In The Bureau of Safety Responsibility, Revocation and Suspension Unit:****1. Undated Accident Report**

2. Letter to Department of Public Safety, Bureau of Safety Responsibility, from Attorney Jim T. Bennett, Jr. on behalf of Sherry Sirmans, the injured minor, dated February 1, 1969

3. Affidavit of attending physician, Form SR-57A, dated February 28, 1969

4. Affidavit of Leon Capes on behalf of the injured minor alleging personal injury, Form SR-57, dated March 24, 1969

5. Letter from Department of Public Safety, Bureau of Safety Responsibility addressed to Paul J. Bell, Jr., requesting accident report, Form SR-50, dated April 10, 1969

6. Order of Suspension, Form SR-8, dated April 10, 1969

7. Letter from Attorney Hugh D. Wright to Georgia Department of Public Safety, Bureau of Safety Responsibility, requesting hearing and stay of suspension undated

8. Order for Hearing on Suspension, Form SR-9, dated April 28, 1969

9. Decision of Hearing dated May 8, 1969.

B. In The Superior Court of Cook County, Georgia; Case No. 477:

1. Petition of Paul J. Bell, Jr. for Return of License and License Plates filed May 8, 1969

2. Order of Judge H. W. Lott setting appeal of Paul J. Bell, Jr. for hearing on May 22, 1969 filed May 8, 1969

3. Finding of Fact of Judge H. W. Lott dated August 1, 1969 and filed August 20, 1969

DOCKET ENTRIES OF THE COURTS BELOW

4. Agreement of parties stipulating facts developed at trial, filed August 29, 1969

5. Notice of Appeal from the decision of the Cook County Superior Court to the Georgia Court of Appeals and Certificate of Service filed September 12, 1969.

C. In The Court of Appeals For the State of Georgia; Case No. 44887:

1. Enumeration of Errors and Statement of Jurisdiction with Certificate of Service filed October 3, 1969

2. Brief of Appellant and Certificate of Service filed October 3, 1969

3. Brief of Appellee and Certificate of Service filed October 31, 1969

4. Decision of the Court of Appeals filed March 4, 1970

5. Motion of Appellee for Rehearing and Certificate of Service, filed March 11, 1970

6. Order denying Motion for Rehearing filed March 17, 1970

7. Notice of Intent to Apply to the Supreme Court of Georgia for Writ of Certiorari and Certificate of Service filed March 23, 1970

8. Order denying application for certiorari by the Supreme Court of Georgia filed May 26, 1970 and dated April 23, 1970

9. Application for Stay of Remittitur Pending Petition to the Supreme Court of the United States for Writ of Certiorari and Certificate of Service filed May 26, 1970

10. Order staying remittitur filed May 26, 1970

D. In The Supreme Court of Georgia; Case No. 25856:

1. Petition for Writ of Certiorari to the Court of Appeals filed April 15, 1970

GEORGIA-FULTON COUNTY

I hereby certify that this is a true and correct copy of the original or duplicate original in the files of the Bureau of Safety Responsibility, Revocation and Suspension Unit, Department of Public Safety.

DATE: 5-16-69

[Signature]
Bureau of Safety Responsibility
Law Offices

BENNETT AND MOON

P. O. Box 1211

VALDOSTA, GEORGIA 31601

JIM T. BENNETT, JR.
FLYOD BANKS MOON

February 1, 1969

TELEPHONE 242-6726 (AREA 9127)
118 WEST HILL AVENUE

Department of Public Safety

P. O. Box 1456
Atlanta, Georgia 30301

Attention: Col. R. H. Burson

RE: Sherry Sirmans, minor daughter
of Melba Sirmans Capes

Dear Col. Burson:

Transmitted herewith is copy of accident report to furnish pertinent information.

We represent Leon and Melba Capes of Box 46, Sparks, Georgia, whose minor daughter, Sherry Sirmans, was injured in an automobile-bicycle accident as a result of the negligence of Paul T. Bell, Jr., Sparks, Georgia. Sherry suffered a broken leg as well as multiple bruises and lacerations, and Rev. Bell has made no effort to settle this matter. We would like to file the necessary forms to have his tag and driver's license taken unless he makes some arrangements to pay the damages.

Your early attention to this matter will be appreciated.

Very truly yours,

BENNETT & MOON

[Signature]
JIM T. BENNETT, JR.

JTBjr/pva

VALDOSTA, GEORGIA 31601

JIM T. BENNETT, JR.
FLOYD BANKS MOON

February 1, 1969

TELEPHONE 242-6726 (AREA 912)
118 WEST HILL AVENUE

Department of Public Safety
P. O. Box 1456
Atlanta, Georgia 30301

Attention: Col. R. H. Burson

RE: Sherry Sirmans, minor daughter
of Melba Sirmans/Capes

Dear Col. Burson:

Transmitted herewith is copy of accident report to furnish pertinent information.

We represent Leon and Melba Capes of Box 46, Sparks, Georgia, whose minor daughter, Sherry Sirmans, was injured in an automobile-bicycle accident as a result of the negligence of Paul T. Bell, Jr., Sparks, Georgia. Sherry suffered a broken leg as well as multiple bruises and lacerations, and Rev. Bell has made no effort to settle this matter. We would like to file the necessary forms to have his tag and driver's license taken unless he makes some arrangements to pay the damages.

Your early attention to this matter will be appreciated.

Very truly yours,

BENNETT & MOON

ЖТБјз/рва

Enclosure



I hereby certify that this is a true and correct copy of the original or duplicate original in the files of the Bureau of Safety Responsibility, Revocation and Suspension Unit, Department of Public Safety.

DATE: 5-11-69

Bureau of Safety Responsibility
 Date of Accident: 11-24-68 Day: Sunday Month: A.M. 3:10 P.M.
 at of Public Safety, P. O. Box 1654, Atlanta 1, Georgia.

POST ACT. NO. _____

DO NOT WRITE IN THIS SPACE.

No. _____ Station _____

OP lat. _____

Fel. REC. _____

Typ. - L.P. - Sh. - Car. _____

Name cd. _____

Coded _____

Type _____

Fel. P.I. P.D. _____

Spotted _____

City, town or township: Sparks

County: Coch

State: Ga

4 miles north of center of

ROAD ACCIDENT OCCURRED ON: College St

at its intersection with _____

OR IF NOT AT INTERSECTION: _____

Check and complete one: ☒ AT ITS INTERSECTION WITH ☐ NOT AT INTERSECTION

Show nearest intersecting street or highway, house number, curve, bridge, railroad crossing, alley, driveway, culvert, railroad, underpass, or other identifying landmark. Show exact distance, using two directions and two distances if necessary.

Foot north of _____

Foot south _____

Foot east _____

Foot west _____

KIND OF LOCALITY

Check one to show that the area adjacent to the street or highway within 300 feet was primarily:

☐ Manufacturing or industrial

☒ Shopping or business

☐ Residential district

☐ School or playground

☐ Open country

Specify other _____

TRAFFIC CONTROL

(Check one or more)

☐ Officer or watchman

☐ Stop-and-go or flashing light

☐ Stop sign

☐ Warning sign

☐ Railroad crossing gates

☐ Railroad automatic signal

☐ Traffic lights

☐ Opposing traffic lanes separated by other _____

☐ Specify other _____

☐ Above control not functioning

☐ No traffic control present

SURFACE CONDITION

(Check one)

☒ Dry

☐ Wet

☐ Muddy

☐ Snowy

☐ Icy

DEFECTS

(Check one or more)

☐ Defective shoulders

☐ Holes, deep ruts, bumps

☐ Loose material on surface

☐ Road under construction

☐ Specify other _____

No defects

CHARACTER

(Check one)

☒ Straight road

☐ Curve

☐ Level

☐ On grade

☐ Hillcrest

SURFACE

(Check one)

☐ Concrete

☐ Asphalt

☐ Brick

☐ Gravel

☐ Dirt

Specify other _____

LIGHTS

(Check one)

☒ Daylight

☐ Dusk

☐ Dawn

☐ Darkness-street lighted

☐ Darkness-street not lighted

WEATHER

(Check one)

☐ Clear

☐ Cloudy

☐ Rainy

☐ Snowing

☐ Fog

Specify other _____

VEHICLE No. 1: 1965 Oldsmobile Wildcat 1968 GA 81-D-45755

Year Make Type (sedan, truck, van, bus, etc.)

DRIVER: Paul T. Bell Jr. PO Box 8 Sparks

Driver's Name: Paul T. Bell Jr.

Driver's Address: Street R.F.D. _____

Driver's License: GA 0-45639

Driver's Experience: _____

Driver's Occupation: Carpenter, sales clerk, etc.

OWNER: Same

Parts of Vehicle Damaged: Left Front Grill

Name of Liability Insurance Company: None

Vehicle Removed To: Driver

City and State: Sparks, Ga

Approximate cost to repair vehicle: \$15.00

Policy No. _____

DRIVEABLE: YES ☒ NO ☐

VEHICLE No. 2: _____

Year Make Type (sedan, truck, van, bus, etc.)

DRIVER: _____

Driver's Name: _____

Driver's Address: Street or R.F.D. _____

Driver's License: _____

Driver's Experience: _____

Driver's Occupation: _____

Driver's Occupation: Carpenter, sales clerk, etc.

OWNER: _____

Parts of Vehicle Damaged: _____

Name of Liability Insurance Company: _____

City and State: _____

Approximate cost to repair vehicle: _____

Policy No. _____

DRIVEABLE: YES ☐ NO ☐

ROAD ACCIDENT OCCURRED ON: Collect St at Intersection with Love St

AT ITS INTERSECTION WITH OR IF NOT AT INTERSECTION: ☒ AT ITS INTERSECTION WITH ☐ NOT AT INTERSECTION:

CHARACTER OF ACCIDENT: ☒ AT ITS INTERSECTION WITH OR IF NOT AT INTERSECTION:

CHARACTER OF ACCIDENT: ☒ AT ITS INTERSECTION WITH OR IF NOT AT INTERSECTION:

CHARACTER OF ACCIDENT: ☒ AT ITS INTERSECTION WITH OR IF NOT AT INTERSECTION:

CHARACTER OF ACCIDENT: ☒ AT ITS INTERSECTION WITH OR IF NOT AT INTERSECTION:

CHARACTER OF ACCIDENT: ☒ AT ITS INTERSECTION WITH OR IF NOT AT INTERSECTION:

CHARACTER OF ACCIDENT: ☒ AT ITS INTERSECTION WITH OR IF NOT AT INTERSECTION:

VEHICLE No. 1: 1965 Alison Wagon 1968 GA 81-D-47100

DRIVER: Paul J. Bell Dr. P.O. Box 8 Spain Age 30 Sex M Race W

DRIVER'S OCCUPATION: PRESENTER Driving Experience Years City and State Speed before accident Speed limit Maximum safe speed Miles per hour

OWNER: Same Name Street or R.F.D. City and State Approximate cost to repair vehicle Policy No. Type DRIVEABLE NO.

VEHICLE No. 2: 1965 Alison Wagon 1968 GA 81-D-47100

DRIVER: Paul J. Bell Dr. P.O. Box 8 Spain Age 30 Sex M Race W

DRIVER'S OCCUPATION: PRESENTER Driving Experience Years City and State Speed before accident Speed limit Maximum safe speed Miles per hour

OWNER: Same Name Street or R.F.D. City and State Approximate cost to repair vehicle Policy No. Type DRIVEABLE NO.

DAMAGE TO PROPERTY OTHER THAN VEHICLES: None Name Address City and State Approximate cost to repair

VEHICLE REMOVED TO: None Name Address City and State Approximate cost to repair

VEHICLE REMOVED TO: None Name Address City and State Approximate cost to repair

DATE: 5-16-69

INDICATE ON THIS DIAGRAM WHAT HAPPENED:

2. Follow dotted lines to draw outline of roadway at place of accident.
3. Number each vehicle and show direction of travel by arrows:
4. Use solid line to show path before accident ———— dotted line after accident - - - -
5. Show reduction by:
6. Show reduced by:
7. Show distance and direction to landmarks; identify landmarks by name or number.

INDICATE
NORTH
BY ARROW

WHAT DRIVERS WERE DOING
(Check one for each driver)

DRIVERS' VIOLATION INDICATED

or more for each driver)

WHAT PEDESTRIAN WAS DOING

[illegible]

1	0	Exceeded lawful speed
2	0	Ten test for conditions
3	0	Did not grant right of way to vehicle
4	0	Did not grant right of way to bicyclist
5	0	Followed too closely
6	0	Drove through safety zone
7	0	Passed on hill with int. clear.
8	0	Passed on curve with int. clear.
9	0	Cut in after passing
0	0	Other improper passing
1	0	On wrong side of road out in passing
2	0	Failed to signal or gave improper signal
3	0	Improper turn—did right two
4	0	Improper turn—did center on left turn
5	0	Improper turn—from wrong lane
6	0	Other improper turning

Driver	1	2	3	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Disregarded police officer
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Disregarded stop-and-go light
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Disregarded flashing light
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Disregarded stop sign
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Disregarded warning sign
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Improper starting from parked position
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Improper marking location
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Driving while intoxicated
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other improper actions (specify)
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No improper driving

<input type="checkbox"/>	Crossing at intersection—right of way
<input type="checkbox"/>	Crossing at intersection—against signal
<input type="checkbox"/>	Crossing at intersection—no signal
<input type="checkbox"/>	Crossing at intersection—diagonally
<input type="checkbox"/>	Crossing not at intersection
<input type="checkbox"/>	Coming from behind/parked cars
<input type="checkbox"/>	Waiting with red light
<input type="checkbox"/>	Other _____
<input type="checkbox"/>	Pushing _____
<input type="checkbox"/>	Playing on roadways
<input type="checkbox"/>	Milking on vehicles
<input type="checkbox"/>	Not on roadway (England) _____
<input type="checkbox"/>	Specify other action _____
<input type="checkbox"/>	Occurrence _____

CONDITION OF DRIVER
(Check one or more)

CONDITION OF DRIVERS AND PEDESTRIAN	
Driver	Driver
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
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93	93
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95	95
96	96
97	97
98	98
99	99
100	100

VEHICLE CONDITION.....
(Check one or more)

barve's vision obscured
(Check one or more in each section)

	1	2	3	Pod.
Fatigued	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Apparently asleep	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Body defect (arms, eyesight, paralysis, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No apparent defects	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Defects not known	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Vehicle	1	2	3
Defective brakes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Improper lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Defective steering mechanism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Defective tires	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other defects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
No defects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Defects not known	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chains in use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Equipped with seat belts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Seat belts in use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Tire, snow, etc., on windshield
☐ Windshield cracks observed
☐ Vehicle observed by lead on vehicle

☐ _____ Specify other
Vehicle not observed

☐ _____
☐ _____
☐ _____
☐ _____
☐ _____

Tire, crack, etc.
Building
Suspended
Billboard
Sign
Particulate
Moving vehicles

(Specify other)
Not observed

DESCRIBE WHAT HAPPENED
(Refer to subject by number)

Use this space for listing additional witnesses and injured persons. Also explain questions not fully covered by checking in the boxes provided.

One I like Teaching Latin on College St. at
approximately 25 MPH when it is not too late at
the Chinese Chinese are taking bikes especially on
Tuesdays at on a Bikes & Road into Paris

Show railroad by _____
 5. Show distance and direction to
 landmark; identify landmarks by
 name or number.



SKID MARKS START 1'

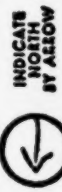
life pt. 9 impact +

Continue 36' to 40 here

CAR + BRAKE STOP. THE WHEELS FROM THEM 25'

WIDTH OF HIGHWAY 30'

WIDTH OF SHOULDERS 24 FT



WHAT DRIVERS WERE DOING
 (Check one for each driver)

- Driver 1 2 3
- ☐ Going straight ahead
 - ☐ Making right turn
 - ☐ Making left turn
 - ☐ Making U turn
 - ☐ Stopping at stop sign
 - ☐ Starting in traffic lane
 - ☐ Starting from parked position
 - ☐ Stopped in traffic lane
 - ☐ Parked
 - ☐ Backing

(Check applicable items)

- ☐ Passing
- ☐ Avoiding vehicle, object, or pedestrian
- ☐ Stopped before applying brakes
- ☐ Slid before applying brakes
- ☐ Hit and run
- ☐ Driverless moving vehicle

DRIVERS' VIOLATION INDICATED
 (Check one or more for each driver)

- Driver 1 2 3
- ☐ Exceeded lawful speed
 - ☐ Too fast for conditions
 - ☐ Did not grant right of way to vehicle
 - ☐ Did not grant right of way to pedestrian
 - ☐ Followed too closely
 - ☐ Drove through safety zone
 - ☐ Passed on hill with less clear.
 - ☐ Passed on curve with less clear.
 - ☐ Cut in after passing
 - ☐ Other improper passing
 - ☐ On wrong side of road not in passing
 - ☐ Failed to signal or gave improper signal
 - ☐ Improper turn—did not right turn
 - ☐ Improper turn—came on left turn
 - ☐ Improper turn—from wrong lane
 - ☐ Other improper turning

WHAT PEDESTRIAN WAS DOING
 (Check one)

- ☐ Crossing at intersection—with signal
- ☐ Crossing at intersection—against signal
- ☐ Crossing at intersection—no signal
- ☐ Crossing at intersection—dependently
- ☐ Crossing not at intersection
- ☐ Waiting in crosswalk
- ☐ Crossing from sidewalk
- ☐ With traffic
- ☐ Against traffic
- ☐ Sidewalks available
- ☐ Sidewalks not available
- ☐ Pushing
- ☐ Other
- ☐ Playing on roadway
- ☐ Hitching at vehicle
- ☐ Not on roadway (Explain)

Specify other action

Occupation

CONDITION OF DRIVERS AND PEDESTRIAN
 (Check one or more)

- Driver 1 2 3 Ped.
- ☐ Had NOT been drinking
 - ☐ Had BEEN DRINKING. IF SO:
 - ☐ Obviously drunk
 - ☐ Ability impaired
 - ☐ Ability not impaired
 - ☐ Not known if impaired
 - ☐ Defects not known

Explain condition

VEHICLE CONDITION
 (Check one or more)

- Vehicle 1 2 3
- ☐ Defective brakes
 - ☐ Improper lights
 - ☐ Defective steering mechanism
 - ☐ Defective tires
 - ☐ Other defects
 - ☐ Defects not known
 - ☐ Chains in use
 - ☐ Equipped with seat belts
 - ☐ Seat belts in use

DRIVER VISION OBTAINED
 (Check one or more in each section)

- ☐ Rain, snow, etc., on wind shield
- ☐ Windshield other-wise obscured
- ☐ Vision obscured by load on vehicle
- ☐ Specific other
- ☐ Vision not obscured
- ☐ Treat, crop, etc.
- ☐ Building
- ☐ Embankment
- ☐ Signboard
- ☐ Hillcrest
- ☐ Parked vehicles
- ☐ Moving vehicles
- ☐ (Specify other)
- ☐ Not observed

DESCRIBE WHAT HAPPENED
 (Refer to vehicles by number)

Use this space for listing additional witnesses and injured persons. Also explain questions not fully answered by checking in the boxes provided. If more space is needed use another form or a sheet of paper the same size.

Car 1 driver traveling down on College St. at approximately 25 mph when it started skidding on icy surface. Driver was riding bike westward on College St on a bike + R.O.C. INTR PART. OF CAR 1 + WAS STRUCK BY CAR #1

ARRESTS Name

None

Name

315

BAW

Time of arrival at the scene

3:20

BAW

INVESTIGATION 1

Time notified of accident

3:15

BAW

Time of arrival at the scene

3:20

BAW

Where also was investigation made?

At the scene

3:15

BAW

Time of arrival at the scene

3:20

BAW

SIGNATURES

Investigator's full name and no.

3:15

BAW

Time of arrival at the scene

3:20

BAW

Were photographs taken? ☐ Yes ☐ No

Driver report form furnished to ☐ Driver 1 ☐ Driver 2

Date of report

11-24-68

MAIL TO: BUREAU OF SAFETY RESPONSIBILITY, P. O. BOX 1456, ATLANTA, GEORGIA.

I hereby certify that this is a true and correct copy of the original or duplicate original in the files of the Bureau of Safety Responsibility, Revocation and Suspension Unit, Department of Public Safety.

DATE: 5-11-69

W. S. Harris
Bureau of Safety Responsibility

Note: this form must be completed by you and attending physician in order for personal \$xxx injury claim to be processed.

STATE OF GEORGIA

BUREAU OF SAFETY RESPONSIBILITY

P. O. Box 1456

ATLANTA, GEORGIA

Feb. 28, 1969

xxx

XXXXXXXXXXXXXXXXXX

Leon Capes

c/o Bennett & Moon

P. O. Box 1211

Valdosta, Ga.

In reply refer to:

Accident Case No.: 69-969

Date of Accident: 11-24-63

Place of Accident: Sparks, Cook Co., Ga.
RE: Sherry Sirmans, minor daughter of Melba Sirmans Capes

This office has received information showing that you were injured as a result of the above accident. If you are claiming damages for same, please answer completely the questions under Section I, execute the affidavit on the reverse side hereof and have your attending physician complete Section II. If you are physically unable to complete this form, please have someone complete it for you as this form should be returned to this office within ten days.

If the motor vehicle of the party from whom you are claiming damage was covered by an automobile liability policy, or if you are not claiming damages, or if a satisfactory settlement has been made, you may disregard this form in its entirety.

Yours very truly,

W. S. Harris

D. S. Harris, Jr., Capt., Ga.S.P.,

Supervisor,

Bureau of Safety Responsibility.

DSH/hc

***** THIS INFORMATION CANNOT BE USED IN ANY ACTION AT LAW TO RECOVER DAMAGES *****

SECTION I - TO BE COMPLETED BY INJURED PERSON

Marital status(check one): Married () Single (X) Age: 5^{yr} Number dependents: 1

You were(check one): Driver (X) Passenger () Pedestrian () Other: Bicycle

Occupation: Child injured when struck by Weekly salary: _____ Days lost _____ Due to injury: _____

Name and address of employer: Sherry Sirmans Capes by Leon Capes

Signature of injured person: _____ Date: 3/22/69

***** SECTION II -- TO BE COMPLETED BY ATTENDING PHYSICIAN *****

Description and nature of injuries: Fractured leg and

pelvic & sacrum of l.b.g.

Cite extent of physical pain and suffering: indefinite

Patient hospitalized: Yes (X) No () Period of hospitalization: 11-24-65 to 12-11-68

Patient unable to work: Yes (X) No () Period of disability: 11-24-65 to 12-11-68

Permanent injury: Yes

Note: this form must be completed by the injured person
personal xxx injury claim to be processed.
STATE OF GEORGIA

BUREAU OF SAFETY RESPONSIBILITY

P. O. Box 1456
ATLANTA, GEORGIA
Feb. 28, 1969

xxx
XXXXXXXXXXXXXXXXXX

Leon Capes
c/o Bennett & Moon
P. O. Box 1211
Valdosta, Ga.

In reply refer to: 69-969
Accident Case No.:
Date of Accident: 11-24-63
Place of Accident: Sparks, Cook Co., Ga.
RE: Sherry Sirmans, minor daughter of Melba Sirmans Capes

This office has received information showing that you were injured as a result of the above accident. If you are claiming damages for same, please answer completely the questions under Section I, execute the affidavit on the reverse side hereof and have your attending physician complete Section II. If you are physically unable to complete this form, please have someone complete it for you as this form should be returned to this office within ten days.

If the motor vehicle of the party from whom you are claiming damage was covered by an automobile liability policy, or if you are not claiming damages, or if a satisfactory settlement has been made, you may disregard this form in its entirety.

Yours very truly,

D. S. Harris, Jr.
D. S. Harris, Jr., Capt., Ga.S.P.,
Supervisor,
Bureau of Safety Responsibility.

DSH/hc

***** THIS INFORMATION CANNOT BE USED IN ANY ACTION AT LAW TO RECOVER DAMAGES *****

SECTION I - TO BE COMPLETED BY INJURED PERSON

Marital status(check one): Married () Single (X) Age: 5 Number dependents: 1

You were(check one): Driver () Passenger () Pedestrian (X) Other: Bicycle
Occupation: *Child injured when struck by truck* Days lost
Weekly salary: Due to injury:

Name and address of employer: *Sherry Sirmans Capes by Leon Capes* Date: 3/22/69
Signature of injured person: *****

SECTION II -- TO BE COMPLETED BY ATTENDING PHYSICIAN

Description and nature of injuries: *Fractured legs and*

fracture a laceration of legs

Cite extent of physical pain and suffering: *intense*

Patient hospitalized: Yes (X) No () Period of hospitalization: 11-24-68 to 1-2-11-68

Patient unable to work: Yes (X) No () Period of disability: *disfiguring scar*

Permanent injuries: Yes (X) No () Degree of permanent injury:

Cost of your services to date: \$ *1,057.50 all cost*

Estimated total medical cost of recovery from injury: \$

Signature of attending physician: *Dr. S. Harris, Jr.*

Dr. S. Harris, Jr.



Form SH-37
Est of Dam.
\$ 51.00

hereby certify that this is a true and correct copy of the original or duplicate original in the files of the Bureau of Safety Responsibility, Revocation and Suspension Unit, Department of Public Safety.

WTE: 5-16-69 [Signature] Bureau of Safety Responsibility

Form SR-50

April 10, 1969

Paul J. Bell, Jr.
P. O. Box #3
Sparks, Ga.

In reply refer to:
Accident Case No.: 69-969
Date of Accident: 11-24-68
Place of Accident: Sparks, Cook Co., Ga.

The Bureau of Safety Responsibility has received information that you or a vehicle owned by you were involved in a motor vehicle accident which comes within the provisions of the Safety Responsibility Law.

Under the Safety Responsibility Law, failure to file a written report of an accident is grounds for the suspension of drivers license until the report is filed and not to exceed thirty days thereafter. A \$25.00 fine is provided upon conviction for failure to file report.

Please fill in the enclosed form setting forth the information requested therein and return it to this Bureau immediately along with this letter. Unless this form is received within a period of ten days from the date of this letter, an order of suspension will be issued and an officer of the law will be directed to pick up the license.

If you or your vehicle were covered by an automobile liability policy at the time of the above accident, obtain a notice of insurance, form SR-21, from your insurance company and attach it to this report or have your insurance company forward such form direct to this Bureau.

If the other party or parties involved were not covered by an automobile liability policy and you are claiming damages as a result of this accident, please execute the affidavit on the reverse side of this letter.

If the damage claims resulting from this accident have been settled, please execute the first section of the general release on the reverse side of this letter showing that you have released the other party or parties involved.

Yours very truly,

[Signature]
D. S. Harris, Jr., Capt., Ga.S.P.,
Supervisor,
Bureau of Safety Responsibility.

the original or duplicate original in one piece of the
Bureau of Safety Responsibility, Revocation and
Suspension Unit, Department of Public Safety.

DATE: 5-11-69 Bureau of Safety Responsibility



STATE OF GEORGIA

DEPARTMENT OF PUBLIC SAFETY
BUREAU OF SAFETY RESPONSIBILITY

P. O. BOX 1486

ATLANTA, GEORGIA 30301

FORM SR-8 (REV. 9-26-67)

To Paul J. Bell, Jr.
P. O. Box #3
Sparks, Ga.

CLAIMANT: Leon and Melba Copes
representing their
minor daughters in reply refer to:
Sherry Sirmant

IMPORTANT

Accident Case No. 69-369

Date of Accident 11-24-68

Place of Accident Sparks, Cook Co., Ga.

ORDER OF SUSPENSION

EFFECTIVE DATE OF SUSPENSION - May 10, 1969

AS A RESULT OF THE ABOVE REFERRED TO MOTOR VEHICLE ACCIDENT IN WHICH YOU OR A MOTOR VEHICLE OWNED BY YOU WERE INVOLVED, YOU HAVE BECOME SUBJECT TO THE GEORGIA MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

Failure to comply with the provisions of this order will result in the suspension of all licenses, registration certificates and plates issued in your name for a period of three years. The herein suspension is ordered in accordance with the provisions of Georgia Laws 1951, Act 386, as amended.

You are required on or before the effective date of suspension:

To (A-1) Deposit cash, certified check, cashier's check or money order in the amount of \$10.00 with the Department of Public Safety, Bureau of Safety Responsibility, as security to satisfy any judgment(s) for damages resulting from the accident. In lieu of security, you may post a surety bond, Form SR-20, in the above amount, which must be executed by you and a surety company authorized to do business in this State or you may post a property bond, Form SR-20-A, as provided under Section 5, Subsection (d) of Act 386 as amended by Georgia Laws of 1956. Forms will be furnished by Bureau on request.

Or (A-2) To submit to the Department of Public Safety, Bureau of Safety Responsibility, a notarized release for damages from all persons injured, whether a pedestrian, a occupant of your vehicle or any other vehicle involved in the accident, and from all persons whose property was damaged, which may be a general release or a conditional release based on an agreement to pay an agreed amount in installments.

And (B) File proof of financial responsibility for the future, Form SR-22-A, for period of one year.

And (C) Pay a restoration fee of \$10.00 (cash, certified check or money order).

IMPORTANT THE ABOVE SUSPENSION WILL NOT APPLY IF YOU HAD IN EFFECT AT THE TIME OF THE ACCIDENT A STANDARD PROVISIONS AUTOMOBILE LIABILITY POLICY INSURING YOUR LIABILITY FOR DAMAGES RESULTING FROM THE ACCIDENT PROVIDED CERTIFICATE OF INSURANCE, FORM SR-21, IS FILED ON YOUR BEHALF BY YOUR INSURANCE COMPANY.



**DEPARTMENT OF PUBLIC SAFETY
BUREAU OF SAFETY RESPONSIBILITY**

P. O. BOX 1446
ATLANTA, GEORGIA 30301

To Paul J. Bell, Jr.
P. O. Box #3
Sparks, Ga.

CLAIMANT: Leon and Melba Cupes
representing their
minor daughters in reply refer to:
Sherry Sirmen

IMPORTANT

Accident Case No. 65-369

Date of Accident 11-24-68

Place of Accident Sparks, Cook Co., Ga.

ORDER OF SUSPENSION

EFFECTIVE DATE OF SUSPENSION Nov. 10, 1968 *Joe P. 11/10/68*
AS A RESULT OF THE ABOVE REFERRED TO MOTOR VEHICLE ACCIDENT IN WHICH YOU OR A MOTOR VEHICLE OWNED BY YOU WERE INVOLVED, YOU HAVE BECOME SUBJECT TO THE GEORGIA MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

Failure to comply with the provisions of this order will result in the suspension of all licenses, registration certificates and plates issued in your name for a period of three years. The herein suspension is ordered in accordance with the provisions of Georgia Laws 1951, Act 386, as amended.

You are required on or before the effective date of suspension:

To (A-1) Deposit cash, certified check, cashier's check or money order in the amount of \$10.00 with the Department of Public Safety, Bureau of Safety Responsibility, as security to satisfy any judgment(s) for damages resulting from the accident. In lieu of security, you may post a surety bond, Form SR-20, in the above amount, which must be executed by you and a surety company authorized to do business in this State or you may post a property bond, Form SR-20-A, as provided under Section 5, Sub-section (d) of Act 386 as amended by Georgia Laws of 1956. Forms will be furnished by Bureau on request.

Or (A-2) To submit to the Department of Public Safety, Bureau of Safety Responsibility, a notarized release for damages from all persons injured, whether a pedestrian, a occupant of your vehicle or any other vehicle involved in the accident, and from all persons whose property was damaged, which may be a general release or a conditional release based on an agreement to pay an agreed amount in installments.

And (B) File proof of financial responsibility for the future, Form SR-22-A, for period of one year.

And (C) Pay a restoration fee of \$10.00 (cash, certified check or money order).

IMPORTANT THE ABOVE SUSPENSION WILL NOT APPLY IF YOU HAD IN EFFECT AT THE TIME OF THE ACCIDENT A STANDARD PROVISIONS AUTOMOBILE LIABILITY POLICY INSURING YOUR LIABILITY FOR DAMAGES RESULTING FROM THE ACCIDENT PROVIDED CERTIFICATE OF INSURANCE, FORM SR-21, IS FILED ON YOUR BEHALF BY YOUR INSURANCE COMPANY.

Date Issued April 10, 1969

11C

Mail driver's license(s), registration certificate(s), and registration plate(s) to: Department of Public Safety, Bureau of Safety Responsibility, P. O. Box 1446, Atlanta, Ga. 30301.

Supervisor, Bureau of Safety Responsibility

(OVER)

HUGH D. WRIGHT
ATTORNEY AT LAW
107 SOUTH BIRWELL AVENUE
ADEL, GEORGIA

TELEPHONE 283132X
896-2413

GEORGIA-FULTON COUNTY

I hereby certify that this is a true and correct copy of the original or duplicate original in the files of the Bureau of Safety Responsibility, Revocation and Suspension Unit, Department of Public Safety.

DATE: 5-16-67

Bureau of Safety Responsibility

Captain D. S. Harris, Jr.
Bureau of Safety Responsibility
P. O. Box 1456
Atlanta, Georgia

Dear Captain Harris:

Re:

Paul J. Beall, Jr.
Case No. 69-969
Date: 11-24-68

You perhaps will recall that the above captioned matter was discussed with you last Thursday night by Rep. Dorsey Matthews and me on the telephone while you were at home.

Mr. Bell is the pastor of the Methodist Church at Sparks, Georgia, and I have talked with the witnesses and the Chief of Police at Sparks and it seems that the accident was completely unavoidable. Rev. Bell was driving at a speed of about 25 miles per hour and the 5 year old child came from behind obstructions directly into the path of his car. It would be much appreciated if you would extend the effective date of suspension for a period of at least thirty (30) days or, if possible, until all channels of appeal have been exhausted. I am informed that the hospital bill of approximately \$1500, including the fee of the doctor was paid by an insurance company of the natural father of the child.

Any assistance that you might be able to render will be much appreciated by all concerned. Also, please accept this letter as a request for hearing before the Director or such person as may be designated by him. Mr. Bell would be severely handicapped by a suspension of his license and license plate.

Sincerely,

Hugh D. Wright
Hugh D. Wright



I hereby certify that this is a true and correct copy of the original or duplicate original in the files of the Bureau of Safety Responsibility, Revocation and Suspension Unit, Department of Public Safety.

DATE: 5-16-69 5-16-69 Bureau of Safety Responsibility

SR-9

STATE OF GEORGIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF SAFETY RESPONSIBILITY

ORDER FOR HEARING ON SUSPENSION OF LICENSE AND REGISTRATION UNDER 92A-605

RE: Accident Case No.: 60-569

THIS will acknowledge receipt of request for a hearing concerning drivers license and registration certificates and plates of Paul J. Dhall, Jr.

P.O. Box 8, Sparks, Georgia, as a result of accident case as captioned.

THEREFORE, Sgt. Capt. D. S. Harris, Jr. of the Georgia State Patrol is designated official representative of the Department to conduct the hearing on the 7th day of May, 1969 at 1:00 P M, in the Cook County.

Sheriff's Office, Mol, Georgia

THE ONLY evidence that the Department can accept and consider is: (a) was the petitioner or his vehicle involved in the accident; (b) has petitioner complied with the provisions of the Law as provided; or (c) does petitioner come within any of the exceptions of the Law.

AT THE conclusion of the hearing all pertinent facts and materials presented will be forwarded to the State Patrol Headquarters for a review and an official determination of the action by the Department in view of evidence presented at the hearing. A written decision will be mailed from the office of the Supervisor of the Bureau of Safety Responsibility. The decision shall be final unless licensee desires to appeal as provided by 92A-602.

GIVEN under the Seal of the Department of Public Safety, this 20th day of April, 1969.

W.S. H. Smith

STATE OF GEORGIA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF SAFETY RESPONSIBILITY

ORDER FOR HEARING ON SUSPENSION OF LICENSE AND REGISTRATION UNDER 92A-605

RE: Accident Case No.: 60-569

THIS will acknowledge receipt of request for a hearing concerning drivers license and registration certificates and plates of Paul J. Dnull, Jr.

P.O. Don E. Sparks, Georgia, as a result of accident case as captioned.

THEREFORE, Sgt. Capt. D. S. Harris, Jr. of the Georgia State Patrol is designated official representative of the Department to conduct the hearing on the 7th day of May, 1969 at 1:00 P.M. in the Cook County,

Sheriff's Office, Adel, Georgia

THE ONLY evidence that the Department can accept and consider is: (a) was the petitioner or his vehicle involved in the accident; (b) has petitioner complied with the provisions of the Law as provided; or (c) does petitioner come within any of the exceptions of the Law.

AT THE conclusion of the hearing all pertinent facts and materials presented will be forwarded to the State Patrol Headquarters for a review and an official determination of the action by the Department in view of evidence presented at the hearing. A written decision will be mailed from the office of the Supervisor of the Bureau of Safety Responsibility. The decision shall be final unless licensee desires to appeal as provided by 92A-602.

GIVEN under the Seal of the Department of Public Safety, this 20th day of April, 1969.

D. S. Harris
D. S. Harris, Jr., Capt., G.S.P.
Supervisor,
Bureau of Safety Responsibility.

DSH/as

cc: Attorney Hugh D. Wright
Rep. Lorsev Matthews

GEORGIA-FULTON COUNTY

I hereby certify that this is a true and correct copy of the original or duplicate original in the files of the Bureau of Safety Responsibility, Revocation and Suspension Unit, Department of Public Safety.

DATE: 5-16-69
Bureau of Safety Responsibility

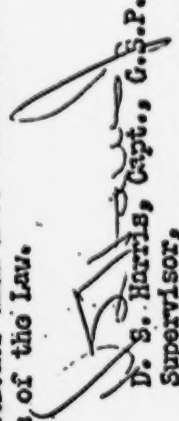
May 8, 1969

DECISION OF HEARING


Hearing held at the Cook County, Sheriff's Office, Adel, Georgia on Accident Case No. 69-969, at 1:00 P.M., May 7, 1969 on petition of Paul J. Bell, Jr., filed by his attorney, Hugh D. Wright. Hearing officer was Capt. D. S. Harris, Jr.

The fact that petitioner contends that the accident was unavoidable has no bearing on the hearing and cannot be considered. The only points that the Department can accept and consider are: (a) was petitioner or his vehicle involved in the accident; (b) has petitioner complied with the provisions of the Law as provided, or (c) does petitioner come within any of the exceptions of the Law.

Information in file shows petitioner to be owner and operator of vehicle involved in the accident and as such does come within the provisions of the Safety Responsibility Law; therefore, it is the decision that Paul J. Bell, Jr., must comply with the provisions set forth on our Sif-8 issued under date of April 10, 1969 with the provision that the Department will extend the date of suspension until June 10, 1969, so that petitioner will have additional time for complying with the provisions of the Law.


D. S. Harris, Capt., C.S.P.,
Supervisor,
Bureau of Safety Responsibility.

ATTEST


DSH/as

**IN THE SUPERIOR COURT
COOK COUNTY**

THE STATE OF GEORGIA

vs.

PAUL J. BELL, JR.

**PETITION FOR RETURN OF LICENSE AND LICENSE PLATES
BEFORE THE BUREAU OF SAFETY RESPONSIBILITY OF
THE DEPARTMENT OF PUBLIC SAFETY**

Now comes PAUL J. BELL, JR. in the above stated cause, and being dissatisfied with the judgment rendered therein, enters this his appeal to the Superior Court of Cook County, Georgia.

/s/ Hugh Wright
Attorney for
Paul J. Bell, Jr.

Filed in Office this 8
day of May, 1969.

Chlois Lollis Dpt. Clerk

IN THE SUPERIOR COURT
COOK COUNTY

In the matter of the State of Georgia v. Paul J. Bell, Jr., reference to the decision of the Bureau of Safety Responsibility of the Georgia Department of Public Safety refusing to restore the driver's license and automobile license plates upon the application of the appellant, the said matter is set for a hearing before this Court at 10 o'clock A. M. on the 22nd day of May, 1969, at the my chambers in the Courthouse in Adel, Cook County, Georgia. It is further ordered that the Georgia Department of Public Safety be notified of this appeal by sending a copy of the same to said Department by certified mail.

IT IS SO ORDERED on this the 8th day of May, 1969.

/s/ H. W. Lott
Judge, Superior Courts
Alapaha Judicial Circuit

IN SUPERIOR COURT OF COOK COUNTY

STATE OF GEORGIA
COUNTY OF COOK

Case No. 477

PAUL J. BELL, JR.

v.

DEPARTMENT OF PUBLIC SAFETY

DECISION

This action came on for hearing on May 22, 1969, before the Court, Honorable H. W. Lott, Judge, presiding, and after consideration of the petition and hear-

ing oral testimony, argument of counsel and observing documentary evidence, it appears as follows:

FINDINGS OF FACT

That the petitioner was involved in an automobile accident on November 24, 1968. The child who rode her bicycle into the side of petitioner's moving automobile was injured. Her medical expenses as a result of the injuries sustained totaled \$1,057.50. The petitioner was not at fault.

The petitioner was ordered by the Department of Public Safety to show proof of financial responsibility or have his license suspended. A hearing was held by the Department of Public Safety at petitioner's request.

The Hearing Officer determined that the petitioner was involved in the accident and that he had failed to comply with Georgia's Financial Responsibility law. It was ordered that petitioner's driver's license be suspended.

Counsel for the petitioner stated in his place that suit had not been filed against the petitioner by or on behalf of the injured party.

It is therefore ORDERED AND ADJUDGED that the petitioner's driver's license not be suspended. It is further ORDERED that when suit is filed against petitioner for the purpose of recovering damages for the injuries sustained by the child in the accident with petitioner that the Department of Public Safety suspend his license if he has not then complied with the Financial Responsibility law.

This the 1st day of Aug., 1969.

/s/ H. W. Lott
Judge, Superior Courts
Alapaha Judicial Circuit

Filed in office this 20 day
of Aug., 1969.

L. W. DeVane, Clerk

IN THE SUPERIOR COURT OF COOK COUNTY
STATE OF GEORGIA

Case No. 477

PAUL J. BELL, JR.

v.

DEPARTMENT OF PUBLIC SAFETY

STIPULATION OF PARTIES—August 29, 1969

A hearing was held in this action on May 22, 1969, before the Court, the Honorable H. W. Lott, Judge, presiding. The proceedings were not transcribed by a court reporter. In accordance with Ga. Code Ann. § 6-805(g) this agreement between counsel for the parties has been prepared. This agreement sets forth the facts that were developed at this May 22, 1969 hearing before Judge Lott.

On November 24, 1968, Paul J. Bell, Jr. was involved in an automobile accident. A child rode her bicycle into the side of the automobile owned and being operated by Mr. Bell. The child's medical expenses as a result of the injuries sustained in this accident totaled \$1,057.50.

An affidavit was filed with the Department of Public Safety setting forth the salient details of this automobile accident between Mr. Bell and the child.

On April 10, 1969, the Department of Public Safety notified Mr. Bell that he must comply with the requirements of Ga. Code Ann. § 92A-605 or his driver's license, certificates of registration, and license plates would be suspended. Mr. Bell requested a hearing and this was accorded him by the Department of Public Safety on May 7, 1969, in the sheriff's office, Cook County, Adel, Georgia.

The hearing officer Captain D. S. Harris, Jr. found that Mr. Bell and his vehicle were involved in an accident resulting in personal injuries of \$1,057.50; that Mr. Bell had not complied with the financial responsibility requirements of Ga. Code Ann. § 92A-605 in that

he did not show proof of: 1. Liability insurance coverage running to the injured party or 2. Surety bond or other evidence of financial responsibility as required by Ga. Code Ann. § 92A-605; 3. That Mr. Bell was subject to the requirements of Ga. Code Ann. § 92A-605.

Based on these findings, the hearing officer ordered that Mr. Bell's driver's license, registration certificates and license plates be suspended for a three-year period beginning June 10, 1969.

At the hearing before Judge Lott, Mr. Bell was found to be free from fault. Also it was established that suit had not been filed against Mr. Bell by the child or anyone on her behalf seeking recovery for the injuries sustained in the accident.

In summary form the facts as developed at the hearing before Judge Lott are these: 1. Mr. Bell was driving his automobile on November 24, 1968, at the time of the accident with the bicycle; 2. The child rode her bicycle into Mr. Bell's moving automobile and suffered injuries resulting in medical expenses of \$1,057.50; 3. The Department of Public Safety was formally advised of the accident and the injuries suffered by the child; 4. The Department of Public Safety requested Mr. Bell to show proof of financial responsibility as to the damages suffered by the child; 5. The petitioner did not show any proof of financial responsibility; 6. The Department of Public Safety, after holding a hearing at which Mr. Bell appeared, ordered that his driver's license, registration certificates and license plates be suspended on June 10, 1969; 7. Mr. Bell was found to be free from fault in the accident with the bicycle; 8. Suit had not been filed against Mr. Bell as of May 22, 1969, for recovery of the child's damages.

Counsel for the Department of Public Safety argued to the Court the decisions in these cases: *Turmon v. Department of Public Safety*, 222 Ga. 843 (1967); *Burson v. Johnson*, 118 Ga. App. 381 (1968) and *Grinstead v. Purvis*, 101 Ga. App. 625 (1960).

After argument of counsel Judge Lott ordered that the Department of Public Safety's suspension order be

stayed unless and until suit be filed against Mr. Bell for recovery of the damages to the child (bicyclist) resulting from the accident.

The below signed agree that these facts were developed before Judge Lott in this action on May 22, 1969. The below signed further agree that this document be filed with the clerk of the Superior Court of Cook County to become a part of the record in this case as set forth in Ga. Code Ann. § 6-805(g).

8/29/69
Date

/s/ Hugh Wright
HUGH WRIGHT
Counsel for
Paul J. Bell, Jr.

8/29/69
Date

/s/ Larry H. Evans
LARRY H. EVANS
Counsel for Department of
Public Safety

Filed in Office this 29 day
of Aug., 1969.

L. W. DeVance, Clerk

IN THE SUPERIOR COURT OF COOK COUNTY
STATE OF GEORGIA

Case No. 477

PAUL J. BELL, JR.

v.

DEPARTMENT OF PUBLIC SAFETY

NOTICE OF APPEAL—September 12, 1969

Notice is hereby given that Colonel R. H. Burson, in his official capacity as Director of the Department of Public Safety, defendant above-named, hereby appeals to the Court of Appeals the order of this court granting certain relief to the above-styled plaintiff entered in this action on August 20, 1969.

The clerk will please omit nothing from the record on appeal.

The trial was not reported therefore an agreement in accordance with Ga. Code Ann. § 6-805(g) has been filed for inclusion in the record on appeal.

This 12th day of September, 1969.

/s/ Arthur K. Bolton
ARTHUR K. BOLTON
Attorney General

/s/ Harold N. Hill, Jr.
HAROLD N. HILL, JR.
Executive Assistant
Attorney General

Please serve:

LARRY H. EVANS

P. O. Address:

132 Judicial Building
40 Capitol Square
Atlanta, Georgia 30334

/s/ Marion O. Gordon
MARION O. GORDON
Assistant Attorney General

/s/ Larry H. Evans
LARRY H. EVANS
Attorney

[Certificate of Service (Omitted in Printing)]

IN THE COURT OF APPEALS OF GEORGIA

Case No. 44887

R. H. BURSON, Director Department of Public Safety,
APPELLANT

v.

PAUL J. BELL, JR., APPELLEE

ENUMERATION OF ERRORS—Filed October 3, 1969

1. The lower court ruled contrary to the law by basing its order on a fact-finding that the appellee was free from fault.

2. The lower court ruled contrary to the law by staying the order of suspension of the Director of the Department of Public Safety until suit be filed by the injured party against the appellee to recover for bodily injuries sustained.

3. The lower court ruled contrary to the evidence by staying the order of suspension issued by the Director of the Department of Public Safety.

STATEMENT OF JURISDICTION

The Court of Appeals of Georgia and not the Supreme Court of Georgia has jurisdiction of this case as it is a case concerning an order (Record 16, 17) issued by the Superior Court of Cook County staying the order of suspension issued by the appellant to the appellee herein, and it is not within the exclusive jurisdiction of the

Supreme Court of Georgia as specified in the Constitution of the State of Georgia, Art. VI, § 2, par. 4.

/s/ Arthur K. Bolton
ARTHUR K. BOLTON
Attorney General

/s/ Harold N. Hill, Jr.
HAROLD N. HILL, JR.
Executive Assistant
Attorney General

/s/ Marion O. Gordon
MARION O. GORDON
Assistant Attorney General

Please serve:

LARRY H. EVANS

P. O. Address:

/s/ Larry H. Evans
LARRY H. EVANS
Attorney

132 Judicial Building
40 Capitol Square
Atlanta, Georgia 30334

[Certificate of Service (Omitted in Printing)]

Case No. 44887

COURT OF APPEALS OF GEORGIA

September Term, 1969

BURSON, Director, etc.

versus

BELL

ENUMERATION OF ERRORS

Filed in office Oct. 3, 1969

/s/ Morgan Thomas
C. C. A. Ga.

Case No. 25856

SUPREME COURT OF GEORGIA

Filed in Office Apr. 15, 1970

/s/ Eva F. Townsend
Deputy Clerk of Supreme Court of Georgia

IN THE COURT OF APPEALS OF GEORGIA

44887

BURSON, Director

v.

BELL

DECISION—March 4, 1970

WHITMAN, Judge. This appeal arises from a suspension of the driver's license and vehicle registration of Paul J. Bell under the Motor Vehicle Safety Responsibility Act (hereafter called the "Act"). Code Ann. § 92A-601 et seq. (Ga. L. 1951, p. 565 et seq., as amended).

On November 24, 1968 Bell was involved in an accident with a bicycle. A report of the accident was filed with the Department of Public Safety. Subsequently, affidavits relating to bodily injury were also filed with the Director. Upon receipt of these affidavits the Director issued an "Order of Suspension" which notified Bell that on a certain date the suspension of his driver's license and vehicle registration would become effective in accordance with Georgia Laws 1951, Act 386. The notice to Bell stated that the suspension would become effective unless he either (1) submitted a notarized release from all persons who suffered personal or property damage, or (2) deposited security or posted bond sufficient to satisfy any judgment for damages resulting from the accident. The notice also stated that Bell would be required to file proof of financial responsibility for a period of one year and pay a restoration fee of \$10 prior to the effective date of the suspension.

Bell requested a hearing before the Director which was granted. But the Director ruled that bell must comply with the provisions of the suspension order or the suspension would become effective. Pursuant to the provisions of the Act (Code Ann. § 92A-601, as amended), Bell appealed the Director's ruling to the superior court for a de novo hearing. By stipulation of the par-

ties the following facts were developed at the de novo hearing:

"1. Mr. Bell was driving his automobile on November 24, 1968, at the time of the accident with the bicycle; 2. The child rode her bicycle into Mr. Bell's moving automobile and suffered injuries resulting in medical expenses of \$1,057.50; 3. The Department of Public Safety was formally advised of the accident and the injuries suffered by the child; 4. The Department of Public Safety requested Mr. Bell to show proof of financial responsibility as to the damages suffered by the child; 5. The petitioner did not show any proof of financial responsibility; 6. The Department of Public Safety, after holding a hearing at which Mr. Bell appeared, ordered that his driver's license, registration certificates and license plates be suspended . . . ; 7. Mr. Bell was found to be free from fault in the accident with the bicycle; 8. Suit had not been filed against Mr. Bell as of May 22, 1969, for recovery of the child's damages."

The trial court entered an order which, after summarizing the above facts, states the following:

"It is . . . ORDERED AND ADJUDGED that the petitioner's driver's license not be suspended. It is further ORDERED that when suit is filed against petitioner for the purpose of recovering damages for the injuries sustained by the child in the accident with petitioner that the Department of Public Safety suspend his license if he has not then complied with the Financial Responsibility law."

The Director of the Department of Public Safety has appealed from the latter order, enumerating the same as error. *Held:*

The Act unequivocally specifies that the Director shall suspend the license and registration of any operator or owner "in any manner involved in the accident unless or until the operator or owner has previously furnished or immediately furnishes security, sufficient in the judgment of the Director to satisfy any judgments for damages or injuries resulting from the accident as may be

recovered against the operator or owner by or on behalf of any person aggrieved . . ." Code Ann. § 92A-605, as amended.

When the above section of the Act is applied to the facts stipulated by the parties and found by the lower court, suspension is required. "Fault" or "innocence" are completely irrelevant factors. The suspension requirement is mandatory and a license "may be re-instated only if the driver shows proof of financial responsibility as required by law or it is shown that he comes within one of the exceptions of Code Ann. § 92A-605 (c) or § 92A-606." *Burson v. Johnson*, 118 Ga. App. 381, 382 (163 SE2d 857). See also *Turmon v. Dept. of Public Safety*, 222 Ga. 843 (2) (152 SE2d 884). And see generally Annotation entitled *Validity of Motor Vehicle Responsibility Act*, 35 ALR2d 1011, and Supplemental Annotation, *Later Case Service for 32-39* (1969 Ed.), p. 407 et seq.

The lower court's order that Bell's license not be suspended until a damage suit be instituted against him is contrary to law and erroneous.

Judgment reversed. Jordan, P.J., and Evans, J., concur.

Argued November 4, 1969—Decided March 4, 1970—Rehearing denied March 17, 1970—Cert. applied for.

Suspension of driver's license, look Superior Court. Before Judge Lott.

Arthur K. Bolton, Attorney General, Harold N. Hill, Jr., Executive Assistant Attorney General, Marion O. Gordon, Assistant Attorney General, Larry H. Evans, for appellant.

William H. Traylor, Elizabeth R. Rindskopf, for appellee.

44887

COURT OF APPEALS
OF THE STATE OF GEORGIA

Atlanta, March 4, 1970

The Honorable Court of Appeals met pursuant to adjournment. The following judgment was rendered:

R. H. Burson, Director, etc. v. P. J. Bell, Jr.

This case came before this court on appeal from the Superior Court of Cook County; and, after argument had, it is considered and adjudged that the judgment of the court below be reversed. Jordan, P. J., Whitman and Evans, JJ., concur.

Bill of Costs, \$30.00

44887

COURT OF APPEALS
OF THE STATE OF GEORGIA

Atlanta, March 17, 1970

The Honorable Court of Appeals met pursuant to adjournment. The following order was passed:

R. H. Burson, Director, etc. v. P. J. Bell, Jr.

Upon consideration of the motion for a rehearing filed in this case, it is ordered that it be hereby denied.

25856

SUPREME COURT OF GEORGIA

Atlanta, April 23, 1970

The Honorable Supreme Court met pursuant to adjournment. The following judgment was rendered:

Paul J. Bell, Jr., v. R. H. Burson, Director,
Department of Public Safety

Upon consideration of the application for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied. All the Justices concur.

Bill of Costs, \$15.00

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta, May 20, 1970

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia, and that Elizabeth Roediger Rindskopf paid the above bill of costs.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

/s/ Henry H. Cobb
Clerk

Case No. 44887

Court of Appeals of Georgia

Remittitur from Supreme Court

Filed in office May 26, 1970

/s/ Morgan Thomas
Clerk Court of Appeals of Georgia

SUPREME COURT OF THE UNITED STATES

No. 5586, October Term, 1970

PAUL J. BELL, JR., PETITIONER

v.

R. H. BURSON, Director, George Department
of Public Safety

On petition for writ of Certiorari to the Court of Appeals of the State of Georgia.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted.

December 21, 1970